

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

NETASHA BARRETT,

Plaintiff,

v.

THE KROGER CO.; ABC
CORPORATIONS #1-3 AND JOHN
DOES #1-3

Defendants,

CIVIL ACTION NUMBER:

*Removed from Cobb County State
Court Civil File No.: 21-A-2062*

PETITION FOR REMOVAL BY DEFENDANT

COMES NOW The Kroger Co., (hereinafter referred to as “Defendant” or “Kroger”) by and through undersigned counsel, and shows this Honorable Court the following:

1.

This civil action was filed in the State Court of Cobb County, Georgia, said county being part of the Northern District of Georgia. (N.D.G.A. Local Rule 3.1(A), LR App. A, I). This, the Atlanta Division of this Court, is the proper Division for this removal as further set forth below.

2.

The action is a civil action for personal bodily injuries and medical expenses,

and the United States District Court for the Northern District of Georgia has jurisdiction by reason of the diversity of citizenship of the parties.

3.

The matter in dispute is believed to exceed \$75,000.00, the statutory amount in controversy, exclusive of interest and costs, as evidenced by Plaintiff's Unliquidated Damages Interest Act and Time Limited Demand Under O.C.G.A. §51-12-14 Letter ("Demand Letter"), attached as Exhibit "A", which claim damages in the amount of \$253,461.42.

4.

(a) At the time of the commencement of this action in State Court, upon information and belief, and according to Plaintiff's *Complaint*, Plaintiff, Netasha Barrett, was and is now, a citizen of Georgia.

(b) Defendant at the time the action was commenced and at the present time, was and still is a corporation, incorporated and existing under and by virtue of the laws of Ohio having its principal place of business in Ohio, and a citizen of Ohio.

5.

A true and correct copy of all process, pleadings, and orders served upon Defendant in this action are attached hereto as Exhibit "C."

6.

Pursuant to 28 U.S.C. § 1446(c)(2)(B), removal of an action is proper if the district court finds by “the preponderance of the evidence” that the “amount in controversy exceeds” \$75,000. Here, the amount in controversy exceeds \$75,000. In Plaintiff’s Demand Letter, she states medical damages of \$53,108.12, as well as future medical damages of \$32,588.30, and other damages totaling \$167,765. Based on the preponderance of the evidence, Plaintiff’s Demand Letter indicates that the amount in controversy is in excess of \$75,000.

7.

The instant *Petition for Removal* is timely filed pursuant to and in accordance with 28 U.S.C. § 1446(b) within thirty days after the receipt by Defendant’s counsel of Plaintiff’s Summons and Complaint, attached as Exhibit “B.”.

8.

Furthermore, the instant *Petition for Removal* is timely filed pursuant to and in accordance with 28 U.S.C. § 1446(c)(1) within one year of the commencement of the action.

9.

Accordingly, this action, over which the United States District Court for the Northern District of Georgia has original jurisdiction under 28 U.S.C. § 1332, is

removable to the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. § 1441.

10.

Venue is proper in the Atlanta Division of the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. § 1441, 28 U.S.C. § 1391, and N.D.G.A. Local Rule 3.1(B)(1)(a). Specifically, Plaintiff's Complaint was filed in the State Court of Cobb County, which is part of the Atlanta Division. *See* N.D.G.A. Local Rule 3.1(A), LR App. A, I.

11.

As required by 28 U.S.C. § 1446(d), Defendant shall give written notice hereof to all adverse parties and shall file a copy of this *Petition for Removal* with the Clerk of the State Court of Cobb County.

WHEREFORE, Defendant, The Kroger Co., requests that this action proceed in this Court as an action properly removed to it.

Respectfully submitted this 21st day of July, 2021.

**GRAY, RUST, ST. AMAND,
MOFFETT & BRIESKE, L.L.P.**
950 East Paces Ferry Road, N.E.
Suite 1700 – Salesforce Tower Atlanta
Atlanta, Georgia 30326
Telephone: (404) 870-7386
Facsimile: (404) 870-1033

/s/ Sarah Raquel L. Lisle

Matthew G. Moffett
Georgia State Bar No. 515323
Jeffrey M. Wasick
Georgia State Bar No. 778423
Sarah Raquel L. Lisle
Georgia State Bar No. 412593
Attorneys for The Kroger Co.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GLADYS OBREGON,

Plaintiff,

v.

THE KROGER CO., JOHN DOE,
JANE DOE

Defendants,

CIVIL ACTION NUMBER:

*Removed from Cobb County State
Court Civil File No.: 21-A-2191*

CERTIFICATE OF SERVICE AND COMPLIANCE WITH L.R. 5.1

I HEREBY CERTIFY that I have caused service of the within and foregoing **KROGER'S PETITION FOR REMOVAL** to be made upon all parties to the above-styled action via electronic filing and via United States Mail with sufficient postage affixed thereon, addressed as follows:

**Troy P. Hendrick
HENDRICK AND HENRY LAW
215 N. McDonough St.
Decatur, GA 30030
770-464-6275
troy@hendrickhenrylaw.com**

This is to further certify that the foregoing complies with the font and point selections approved by the Court in Local Rule 5.1. It is prepared in Times New Roman 14-point font.

Respectfully submitted this 21st day of July, 2021.

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Suite 1700 – Salesforce Tower Atlanta
Atlanta, Georgia 30326
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Attorneys for The Kroger Co.